BLACKROCK

August 7, 2013

Via e-mail to e-ORI@dol.gov

Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Re: Department of Labor (the "Department") Advance Notice of Proposed Rulemaking: Pension Benefit Statements (RIN 1210-AB20)

Ladies and Gentlemen:

BlackRock[1] is pleased to offer its comments on the Department's May 8, 2013 advance notice of proposed rulemaking.[2] The rule under consideration would require that periodic benefit statements provided to defined contribution plan participants under Section 105 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), include projections of account balances at retirement and estimates of monthly lifetime income based on the participant's current and projected account balances. We commend the Department for its continued focus on encouraging savings and promoting investment education to better enable plan participants to prepare for retirement. As the Department is aware, defined contribution plans increasingly serve as the primary employer-sponsored retirement savings vehicle for the average American worker, and it is therefore critical that participants are incentivized to fully utilize these plans. While plan design features such as auto-enrollment and auto-escalation and more diversified and age appropriate default investment options, such as target date funds, have increased the strength of defined contribution plans, BlackRock agrees with the Department that increased participant education and understanding of the income that a defined contribution plan can provide in retirement is another vital step in continuing to make the defined contribution system more robust.

Our views on the value of demonstrating how account balances may translate into potential income streams have evolved as retirement planning tools have become increasingly sophisticated, dynamic and interactive through the creative use of advancing technology and participants are becoming more cognizant of the challenges of managing their savings through retirement in light of increasing longevity. We believe that providing participants with an estimate of the income they can expect to receive in retirement should enhance the participant's appreciation of the importance of their defined contribution plans in preparing for retirement.

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[1] BlackRock is one of the world's largest investment management firms, managing over $3.94 trillion on behalf of individual and institutional clients worldwide through a variety of equity, fixed income, cash management, alternative investment and advisory products. As of March 31, 2013, it managed over $440 billion for U.S. defined contribution plans.

[2] 78 Fed. Reg. 26727 (May 8, 2013).

As described in more detail below, BlackRock has three core concerns with the Department's proposal:

- BlackRock believes that disclosure of account balance and income projections should be voluntary. Financial service providers are developing, and plan sponsors are increasingly adopting, innovative web-based and interactive retirement education and planning tools. Requiring disclosure at this time could have a chilling effect on these efforts, as plan sponsors will likely feel compelled to disclose only what is required to avoid potential fiduciary liability and financial services firms will likely feel constrained to offer solutions based on the conditions of the rule.

- If the Department adopts a mandate, BlackRock suggests that account balance and income projections only be provided for participants who are closer to retirement (i.e., starting at age 55). For participants who are nearing retirement, understanding how their defined contribution plan account balances translate into monthly income is a valuable retirement planning tool. However, there is a significant risk that projected account balances or monthly income projections for younger workers (i.e., those under age 55), will be highly inaccurate, regardless of the assumptions used. Inaccurate projections could undermine participant confidence in the defined contribution system as a whole. Overly optimistic projections could cause savings rates to decline, while overly conservative estimates could discourage participation in the defined contribution system if participants view it as impossible to achieve their goals.

- Regardless of whether providing some form of disclosure is required, the Department should not mandate or favor the use of specific assumptions or adopt a narrow safe harbor that proscribes calculations based on set assumptions. It also should not require that information be included in a specific format in paper benefit statements. If the Department takes this path, BlackRock is concerned that it could impede and curtail the development of increasingly sophisticated, dynamic and interactive retirement and financial planning tools that seek to engage the participant in the retirement planning process. Rather, consistent with its goal of increasing education and awareness of retirement income, the Department should encourage the financial services industry to continue innovation. Plan sponsors should have the flexibility to choose what they consider the best alternative, consistent with generally accepted investment theory, for educating their plan participants about retirement income and helping them achieve their goals.

1. <u>Disclosure of Retirement Income Should be Voluntary; If the Department Mandates Disclosure, it Should Only Be for Participants Who Are Closer to Retirement</u>

The Department proposes that the plan sponsor provide monthly lifetime income estimates based on the participant's current as well as projected future account balance. While we appreciate the Department's desire to furnish participants with more meaningful information about their defined contribution savings, we do not believe that plan sponsors should be required to provide projections of account balances or income projections. As outlined in more detail below, we believe that any mandate threatens to stifle innovation in the critical area of retirement planning education and will strongly incent plan sponsors to provide only what the rule requires. We are particularly concerned that the Department's proposal will fall short of its intended purpose for younger participants – those under age 55.

Thus, we urge the Department to encourage plan sponsors to increase education about retirement savings and income and to voluntarily provide information regarding projected account balances and income on account balance statements and/or through any other appropriate medium. Plan sponsors should be permitted to decide what, how, to whom and when to provide this information. To avoid plan sponsors', recordkeepers' or other financial service providers' concerns regarding potential fiduciary liability, we further urge the Department to provide guidance comparable to that contained in Interpretive Bulletin 96-1 to the effect that projections and lifetime income illustrations are financial education and not investment advice.

If the Department adopts a mandate, it should not require plan sponsors to provide projected account balances or income estimates for participants younger than age 55. Current account balances are a key piece of information that defined contribution plan participants receive. Subject to any liquidity or redemption constraints, the current account balance is a precise, unambiguous and tangible number that participants can rely on to gauge their savings progress. By contrast, projected account balances and lifetime income estimates, as proposed by the Department, are highly dependent on the assumptions used. One of the challenges in projecting income and asset levels is that as the time horizon lengthens, the projections become less reliable and the range of outcomes increases. Participants' savings outcomes are highly sensitive to the level and timing of contributions, the investment(s) selected, the actual market returns and the timing of these returns (i.e., experiencing negative market returns early in the participant's savings career rather than close to retirement will significantly impact the retirement outcomes even if average returns over the entire savings career remain unchanged). In addition to uncertainties regarding investment performance over a long time horizon and timing of that investment performance, before age 55 individuals face many variables in their lives that impact their expenses and their ability to save (e.g., children's education, home purchase, job change or loss, relocation). Many Americans are forced to frequently adjust expenses and savings rates over time.

To compound the difficulty of creating reliable projections over a long time horizon, interest rates or the cost of an annuity (assuming availability) can fluctuate considerably over several decades, resulting in likely highly inaccurate, if not misleading, estimates of lifetime income. Predicting future lifetime income amounts relies heavily on mortality expectations and very long dated interest rates. Given that observable interest rates are limited to currently available long dated bonds (i.e., the U.S. government issues 30-year bonds), it would be difficult to project these variables with much accuracy for individuals under the age of 55. As a result, we are concerned that estimates provided to younger employees may vary significantly from the income that could actually be generated.

Disclosures that accompany the proposed illustrations can clearly state that projected amounts are only estimates based on assumptions, but younger participants may not read those disclosures or fully appreciate the likely significant gap between information on a statement and what they may actually achieve many years in the future. Because the range of outcomes for younger participants can vary so widely over several decades, we believe that if the Department adopts a mandate, it should only apply to participants who are closer to retirement (e.g., when they reach age 55).

In BlackRock's view additional investment education stressing the importance of savings and plan design features such as the "autos", meaningful default savings rates, and utilizing efficient investment solutions and participant communication are more effective and reliable at increasing savings adequacy and driving adequate retirement outcomes for younger employees. For example, we believe that the 3% default contribution rate is too low and that savings rates for younger employees would improve dramatically if that rate were increased to 6%.[3] As an alternative to mandating proscribed disclosure,

[3] *See* Internal Revenue Code, 401(k)(13)(c) and 1.401(k)-3(j)(iii).

we suggest that the Department further encourage plan sponsors to review their plans' design to help bolster and optimize savings. The Department can achieve this by providing education and helpful resources, such as the recently published Target Date Retirement Funds, Tips for ERISA Plan Fiduciaries.[4]

Supplementing the account balance on a participant's statement or online account with a projected account balance and translation of both the participant's current and projected account balances into projected monthly lifetime income amounts provides participants closer to retirement (age 55 and older) with a more meaningful yardstick against which they can measure retirement savings adequacy and progress toward reaching retirement outcome goals. Behavioral research and participant surveys have found that people routinely underestimate their longevity[5] and overestimate how much they can safely withdraw from their retirement savings to last throughout retirement. BlackRock believes that a monthly income projection is a useful metric for individual investors simply because most do not have the financial expertise to translate their savings into a meaningful income number. Individuals can relate a monthly or annual income projection to their monthly or annual expenses more easily than a lump sum amount. Once an individual reaches age 55, the range of possibilities narrows, resulting in an opportunity for more clear and meaningful modeling in light of fewer variables that might impact expenses and ability to save.[6]

In sum, by encouraging increased savings in the case of younger workers and encouraging participants nearing retirement to focus on the amount of savings needed to achieve their desired level of retirement income (i.e., the amount needed to meet their anticipated liabilities in retirement such as living and medical expenses), the Department would be best positioning participants to fully and immediately avail themselves of their defined contribution plan to reach their retirement goals.

2. <u>The Department Should Not Adopt or Endorse Specific Assumptions or a Narrow Safe Harbor</u>

BlackRock believes that plan sponsors should have flexibility regarding how the projections of assets and lifetime income are communicated to their plan participants and the assumptions that are used to

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[4] Target Date Retirement Funds, Tips for ERISA Plan Fiduciaries (February 2013).

[5] The 2011 MetLife Retirement Income IQ survey finds that almost one-third (32%) of respondents know that there is a 50% chance that they will live longer than the expected 85 years. As with previous surveys, more respondents believe that those chances are 25%, and therefore underestimate the probability of living that long.

[6] Since the Department's initial request for information regarding lifetime income in 2010, plan sponsors, participants and the financial services industry have increased their focus on retirement income. Financial services firms are offering an increasing number of investment options that provide for retirement income, plan sponsors have started to adopt these options on their defined contribution plan menus, and better financial modeling tools can facilitate more reliable estimates for employees nearing retirement. In addition, participants are showing increasing concern about outliving their savings. As a result of this dynamic and rapidly changing market, BlackRock no longer believes that the adoption of uniform assumptions or restricting information regarding income to plans that offer an investment option that provides for an income stream in retirement is the best practice. See BlackRock May 3, 2010 Response to Request for Information. While this was a sensible approach given the market conditions and technology available in 2010, we are of the view that this is no longer the best approach in 2013. Rather, in our view, financial services firms should be encouraged to continue to develop retirement education and financial planning tools and plan sponsors should have the freedom to adopt the approach and tools and provide the education that they believe will be in the best interest of their participants. In fact, BlackRock has just recently launched the CoRI™ Indexes, a suite of indexes that can be used to calculate an estimate of how much income a participant's savings could generate beginning the year the participant turns 65, as early as 10 years before retirement. The index levels, each calculated on a daily basis, can help participants estimate how much money they need today to generate each dollar of annual income in retirement. For more information on the BlackRock CoRI Indexes, please go to www.blackrock.com/cori/index-overview.

provide that information. There are many ways that participants can consume information. While historically individuals looked at paper statements, behavior has changed dramatically with the growth of the internet and web-based tools. Today's technology has facilitated participants gaining access to significantly richer content by using interactive web-based tools. These tools generally permit input of differing assumptions and take into account a participant's personal circumstances and investments, making them more relevant and meaningful to individual users. For example, web-based and interactive tools could provide individually tailored information (i.e., based on an individual's personal financial situation) and incorporate information based on the investment options (including annuities) that are actually available to the participants in their plans[7]. We believe that web-based and other sophisticated retirement planning tools will be significantly more effective than mere disclosure on a participant benefit statement in assisting participants with increasing their retirement income.

BlackRock also notes that for most people retirement income will come from multiple sources (e.g., personal savings, individual retirement accounts, annuities, social security). Financial institutions are currently focused on developing products and services intended to help individuals with an overall investment strategy that builds an optimal solution taking into account both plan and non-plan assets. If the Department supports or approves a standardized medium and format and/or a limited universe of assumptions, plan sponsors and recordkeepers have a strong incentive to adopt them, even though more accessible, accurate and individualized education may be available. Thus, we are concerned that an overly proscriptive rule or narrow safe harbor adopted at this time could inhibit the development and adoption of these innovative products and services.

Further, disclosure on a participant statement may be informative, but it does not provide any education on how to improve retirement planning or help the participant take action. Disclosure alone, assuming it is read, is likely not to be the most effective tool to achieve the goals of improving retirement education and outcomes.[8] By contrast, interactive or web-based tools can be used to educate the participant about the plan and the importance of retirement savings as well as position the participant to take action. If a retirement income calculator displays an amount that the participant believes is not sufficient, his question will be: "How do I fix this problem"? Interactive tools may be designed to both facilitate the critical calculations and assist the participant in correcting course and making informed investment and savings decisions.

We believe that a flexible approach is likely also beneficial to plan recordkeepers, who will not be required to build systems at this time that conform to specific assumptions that may prove inaccurate or irrelevant given a participant's particular circumstances. Rather, as the marketplace evolves, they can better work with plan sponsors, investment managers and other providers of web-based retirement planning tools to provide optimal information to plan participants.

For this reason, even if the Department mandates disclosure, we urge it not to adopt any rigid rules or a narrow more proscriptive safe harbor at this time. Rather, rules should be flexible and encourage the industry to further innovate and refine its retirement and income planning and investment management tools.

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[7] As described above, as a result of the dramatic improvements in technology, BlackRock is no longer of the view that use of rigid and uniform assumptions provides the optimal solution. An inflexible approach will have a chilling effect on innovation of financial planning tools and products at a time when it is more important than ever to position Americans to understand and effectively utilize their defined contribution plan benefits in retirement.

[8] The Plan Sponsor Council of America's Fee Disclosure Snapshot Survey conducted in October 2012 indicated that 95.9% of plan sponsors reported no change in participant behavior as a result of the fee disclosure information.

If the Department does adopt a safe harbor, we urge it to adopt a broad and general safe harbor that provides only a framework within which retirement and income planning and investment management tools can develop.[9] That framework would permit the use of generally accepted investment theory and reasonable assumptions regarding retirement age, interest rates, salary increases and other pertinent information. Adoption of any rigid safe harbor at this time will result in plan sponsors feeling compelled to use that safe harbor to avoid potential liability, thereby inhibiting any future development and evolution of tools and methodologies.

3. Disclosures / Explanation of Assumptions and Disclaimer

Regardless of whether the disclosure is mandatory and whether use of a specified medium, format and/or assumptions is either mandated or encouraged, we concur with the Department that participants need to be provided with an "understandable" explanation of the assumptions that are utilized in the calculations underpinning any monthly lifetime income illustrations. Given the experience with the equity market downturn during the financial crisis of 2008/2009, we strongly support the Department's proposal to add a statement that any projections are "estimates" and do not "provide a guarantee". Moreover, we would also propose that the Department acknowledge in adopting any regulation related to the illustration of a projected lifetime income stream, and require that any disclosure accompanying such illustration clearly state, that a participant may not be able to purchase this monthly income stream and that if he purchased it in the market, fees would, and other benefit features could, decrease the monthly income stream.

Conclusion

As fiduciaries for our clients, as a plan sponsor and as participants in a defined contribution plan, we share the Department's resolve to ease the average participant's burden in planning for and achieving a secure retirement. We propose that the Department not mandate any disclosure of projections of account balances or retirement income at this time. If the Department chooses to adopt a mandate, we recommend only doing so for participants age 55 and older and that it refrain from adopting or endorsing any specific format or assumptions for the disclosure.

BlackRock welcomes the opportunity to further discuss its views on this important topic with Employee Benefits Security Administration staff and others in the Department.

Sincerely,

Chip Castille
Managing Director

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[9] We note that the financial services industry currently faces an issue caused by the tension between the proscribed terms of the current qualified default investment alternative regulations and product innovation. 29 C.F.R. 2550.404c-5. ("QDIA Regulations"). When the QDIA Regulations were adopted they were generally viewed as broad and flexible. While the adoption of the QDIA Regulations helped to foster some innovation, they did not specifically address retirement income products that have been developed since the QDIA Regulations were adopted. This has created a challenge for some plan sponsors in deciding whether to adopt these innovative solutions for their clients.